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**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

THOMAS MICHAEL WERDERITS  
509 Gaynfair Terrace  
Arroyo Grande, CA 93420

Physical Therapist License No. PT 20192

Respondent.

Case No. 1D 2004 63822

OAH No. L2004090267

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Physical Therapy Board of California of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation

**PARTIES**

1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical Therapy Board of California. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by E. A. Jones III, Deputy Attorney General.

2. Respondent Thomas Michael Werderits (Respondent) is represented by himself.

3. On or about September 14, 1994, the Physical Therapy Board of California issued Physical Therapist License No. PT 20192 to Thomas Michael Werderits (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 1D 2004 63822 and will expire on September 30, 2004, unless renewed.

## JURISDICTION

4. Accusation No. 1D 2004 63822 was filed before the Physical Therapy Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 19, 2004. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 1D 2004 63822 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read and understands the charges and allegations in Accusation No. 1D 2004 63822. Respondent has also carefully read and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 1D 2004 63822.

9. Respondent agrees that his Physical Therapist License is subject to

1 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
2 Disciplinary Order below.

3 CIRCUMSTANCES IN MITIGATION

4 10. Respondent Thomas Michael Werderits has never been the subject of any  
5 disciplinary action. He is admitting responsibility at an early stage in the proceedings.

6 RESERVATION

7 11. The admissions made by Respondent herein are only for the purposes of  
8 this proceeding, or any other proceedings in which the Physical Therapy Board of California or  
9 other professional licensing agency is involved, and shall not be admissible in any other criminal  
10 or civil proceeding.

11 CONTINGENCY

12 12. This stipulation shall be subject to approval by the Physical Therapy Board  
13 of California. Respondent understands and agrees that counsel for Complainant and the staff of  
14 the Physical Therapy Board of California may communicate directly with the Board regarding  
15 this stipulation and settlement, without notice to or participation by Respondent or his counsel.  
16 By signing the stipulation, Respondent understands and agrees that he may not withdraw his  
17 agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon  
18 it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement  
19 and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be  
20 inadmissible in any legal action between the parties, and the Board shall not be disqualified from  
21 further action by having considered this matter.

22 13. The parties understand and agree that facsimile copies of this Stipulated  
23 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
24 force and effect as the originals.

25 14. In consideration of the foregoing admissions and stipulations, the parties  
26 agree that the Board may, without further notice or formal proceeding, issue and enter the  
27 following Disciplinary Order:

28 ///

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physical Therapist License No. PT 20192 issued  
3 to Respondent Thomas Michael Werderits is revoked. However, the revocation is stayed and  
4 Respondent is placed on probation for seven (7) years on the following terms and conditions.

5 1. **PRACTICE IN A SUPERVISED STRUCTURED ENVIRONMENT**

6 Respondent may only practice physical therapy under the supervision of a physical therapist who  
7 is responsible for the care rendered.

8 2. **RESTRICTION OF PRACTICE - HOME CARE** The respondent shall

9 not provide physical therapy services in a patient's home. However, if respondent does not test  
10 positive for drugs or alcohol in biological fluid testing during the first six months of probation,  
11 he may, with the approval of the Diversion Program, provide physical therapy services in a  
12 patient's home.

13 3. **RESTRICTION OF PRACTICE - SOLO PRACTICE** The respondent

14 shall be prohibited from engaging in the solo practice of physical therapy.

15 4. **RESTRICTION OF PRACTICE - GRAVEYARD SHIFT** The

16 respondent shall be prohibited from working a graveyard shift or any shift in which there is no  
17 other physical therapist practicing.

18 5. **RESTRICTION OF PRACTICE - PROHIBITION OF SELF**

19 **EMPLOYMENT OR OWNERSHIP** Respondent may not be the sole proprietor or partner in the  
20 ownership of any business that offers physical therapy services. Respondent may not be an  
21 officer of any corporation that offers or provides physical therapy services. Respondent may not  
22 employ physical therapists, physical therapist assistants or physical therapy aides.

23 6. **RESTRICTION OF PRACTICE - NO EMPLOYMENT OR**

24 **SUPERVISION OF PHYSICAL THERAPY STUDENT INTERNS** Respondent shall not  
25 supervise any physical therapy student interns during the entire period of probation. Respondent  
26 shall terminate any such supervisorial relationship in existence on the effective date of this  
27 probation.

28 7. **RESTRICTION OF PRACTICE - NO EMPLOYMENT OR**

1 SUPERVISION OF PHYSICAL THERAPIST LICENSE APPLICANTS, PHYSICAL

2 THERAPIST ASSISTANT APPLICANTS, OR PHYSICAL THERAPIST Respondent shall  
3 not supervise any physical therapist license applicants, physical therapist assistant applicants, or  
4 physical therapist assistants during the entire period of probation. Respondent shall terminate  
5 any such supervisory relationship in existence on the effective date of this probation.  
6 Respondent may supervise a physical therapy aide in accordance with statute and regulations.

7 8. RESTRICTION OF PRACTICE - ADMINISTRATION OR  
8 POSSESSION OF CONTROLLED SUBSTANCES Respondent shall not administer or possess  
9 any controlled substances as defined in the California Uniform Controlled Substances Act. This  
10 prohibition does not apply to medications lawfully prescribed to respondent for a bona fide  
11 illness or condition by a practitioner licensed to prescribe such medications.

12 9. PROHIBITION OF POSSESSION OR USE OF CONTROLLED  
13 SUBSTANCES Respondent shall abstain completely from the personal use or possession of  
14 controlled substances as defined in the California Uniform Controlled Substances Act, dangerous  
15 drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a  
16 prescription. This prohibition does not apply to medications lawfully prescribed to respondent  
17 for a bona fide illness or condition by a practitioner licensed to prescribe such medications.

18 10. PROHIBITION OF THE USE OF ALCOHOL Respondent shall abstain  
19 completely from the use of alcoholic beverages.

20 11. BIOLOGICAL FLUID TESTING Respondent shall immediately submit  
21 to biological fluid testing, at respondent's cost, upon the request of the Board or its designee.

22 12. DIVERSION PROGRAM Within 15 days from the effective date of this  
23 decision, respondent shall enroll and participate in, or maintain enrollment and participation in,  
24 the Board's Diversion Program until the Board determines that participation in the diversion  
25 program is no longer necessary, but in any event, no longer than seven years from the effective  
26 date of this order. If the Diversion Program determines after respondent completes his fifth year  
27 of probation and diversion, that respondent's participation in the diversion program is no longer  
28 necessary, the Board will terminate probation. Failure to comply with requirements of the

1 Diversion Program, terminating the program without permission or being expelled for cause shall  
2 constitute a violation of probation by respondent.

3 13. COMMUNITY SERVICES The respondent shall be required to provide  
4 community service without compensation within the State of California as part of the probation.  
5 The respondent shall submit for prior approval a community service program to the Board or its  
6 designee.

7 14. PSYCHIATRIC/PSYCHOLOGICAL EVALUATION AND  
8 TREATMENT Within 30 days of the effective date of this decision, and on a periodic basis  
9 thereafter as may be required by the Board or its designee, respondent shall undergo a  
10 psychiatric/psychological evaluation (and psychological testing, if deemed necessary) by a  
11 Board-appointed psychiatrist/psychologist, who shall furnish an evaluation report to the Board or  
12 its designee. The respondent shall pay the cost of the psychiatric/psychological evaluation.

13 If respondent is required by the Board or its designee to undergo  
14 psychiatric/psychological treatment, respondent shall within 30 days of the requirement submit to  
15 the Board for its prior approval the name and qualifications of a psychiatrist/psychologist of  
16 respondent's choice. Respondent shall undergo and continue psychiatric/psychological treatment  
17 until further notice from the Board or its designee. Respondent shall have the treating  
18 psychiatrist/psychologist submit quarterly status reports to the Board or its designee indicating  
19 whether the respondent is capable of practicing physical therapy safely.

20 15. PROBATION MONITORING COSTS All costs incurred by the Board  
21 for probation monitoring during the entire period of probation shall be reimbursed by respondent.  
22 Respondent will be billed at least quarterly. Failure to make the ordered reimbursement within  
23 60 days of the billing shall constitute a violation of the probation order. In addition to the filing  
24 of an Accusation or the issuance of an administrative citation, the filing of criminal charges shall  
25 be sought when appropriate.

26 16. COST RECOVERY The respondent is ordered to reimburse the Board  
27 the actual and reasonable investigative and prosecutorial costs incurred by the Board in the  
28 amount of \$1,000.00. The respondent will normally be ordered to make the reimbursement

1 within 30 days from the effective date of the decision unless the Board agrees in writing to  
2 payment by an installment plan. Failure to make the ordered reimbursement, or any agreed upon  
3 payment, may constitute a violation of the probation order.

4 17. OBEY ALL LAWS Respondent shall obey all federal, state and local  
5 laws, and statutes and regulations governing the practice of physical therapy in California.

6 18. COMPLIANCE WITH ORDERS OF A COURT The respondent shall be  
7 in compliance with any valid order of a court. Being found in contempt of any court may  
8 constitute a violation of probation.

9 19. COMPLIANCE WITH CRIMINAL PROBATION AND PAYMENT OF  
10 RESTITUTION Respondent must not violate any terms and conditions of criminal probation  
11 and must be in compliance with any restitution ordered.

12 20. QUARTERLY REPORTS Respondent shall submit quarterly  
13 declarations under penalty of perjury on forms provided by the Board, stating whether there has  
14 been compliance with all the conditions of probation.

15 21. PROBATION MONITORING PROGRAM COMPLIANCE Respondent  
16 shall comply with the Board's probation monitoring program.

17 22. INTERVIEW WITH THE BOARD OR ITS DESIGNEE Respondent  
18 shall appear in person for interviews with the Board, or its designee, upon request at various  
19 intervals and with reasonable notice.

20 23. NOTIFICATION OF PROBATIONAL STATUS TO EMPLOYERS The  
21 respondent shall notify all present or future employers of the reason for and the terms and  
22 conditions of the probation by providing a copy of the Accusation and the decision and order  
23 (stipulated settlement) to the employer. The respondent shall obtain written confirmation from  
24 the employer that the documents were received. If the respondent changes employment or  
25 obtains additional employment, the respondent shall provide the above notification to the  
26 employer and submit written employer confirmation to the Board within 10 days. The  
27 notification(s) shall include the name, address and phone number of the employer, and, if  
28 different, the name, address and phone number of the work location.

1                   24.     NOTIFICATION OF CHANGE OF NAME OR ADDRESS The  
2 respondent shall notify the Board, in writing, of any and all changes of name or address within  
3 ten (10) days.

4                   25.     RESTRICTION OF PRACTICE - TEMPORARY SERVICES  
5 AGENCIES Respondent may only practice or perform physical therapy in a supervised  
6 structured environment. The respondent shall not work for a temporary services agency or  
7 registry.

8                   26.     PROHIBITED USE OF ALIASES Respondent may not use aliases and  
9 shall be prohibited from using any name which is not his legally-recognized name or based upon  
10 a legal change of name.

11                  27.     WORK OF LESS THAN 20 HOURS PER WEEK If the respondent  
12 works less than 192 hours in a period of three months, those months shall not be counted toward  
13 satisfaction of the probationary period. The respondent shall notify the Board if him works less  
14 than 192 hours in a three month period.

15                  28.     TOLLING OF PROBATION The period of probation shall run only  
16 during the time respondent is practicing within the jurisdiction of California. If, during  
17 probation, respondent does not practice within the jurisdiction of California, respondent is  
18 required to immediately notify the probation monitor in writing of the date that respondent's  
19 practice is out of state, and the date of return, if any. Practice by the respondent in California  
20 prior to notification to the Board of the respondent's return will not be credited toward  
21 completion of probation. Any order for payment of cost recovery shall remain in effect whether  
22 or not probation is tolled.

23                  29.     VIOLATION OF PROBATION If respondent violates probation in any  
24 respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke  
25 probation and carry out the disciplinary order that was stayed. If an accusation or petition to  
26 revoke probation is filed against respondent during probation, the Board shall have continuing  
27 jurisdiction until the matter is final, and the period of probation shall be extended until the matter  
28 is final.



1                   30.     CESSATION OF PRACTICE DUE TO RETIREMENT, HEALTH OR  
2 OTHER REASONS Following the effective date of this probation, if respondent ceases  
3 practicing physical therapy due to retirement, health or other reasons, respondent may request to  
4 surrender his license to the Board. The Board reserves the right to evaluate the respondent's  
5 request and to exercise its discretion whether to grant the request or to take any other action  
6 deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the  
7 tendered license, the terms and conditions of probation shall be tolled until such time as the  
8 license is no longer renewable, the respondent makes application for the renewal of the tendered  
9 license or makes application for a new license.

10                   31.     COMPLETION OF PROBATION Upon successful completion of  
11 probation, respondent's license or approval shall be fully restored.

12                   32.     WRITTEN EXAM ON THE LAWS & REGULATIONS GOVERNING  
13 THE PRACTICE OF PHYSICAL THERAPY Within 90 days of the effective date of this  
14 decision, respondent shall take and pass the Board's written examination on the laws and  
15 regulations governing the practice of physical therapy in California. If respondent fails to pass  
16 the examination, respondent shall be suspended from the practice of physical therapy until a  
17 repeat examination has been successfully passed.

18                   33.     PRACTICE OR PERFORMANCE OF PHYSICAL THERAPY WHILE  
19 ON PROBATION It is not contrary to the public interest for the respondent to practice physical  
20 therapy under the probationary conditions specified in the disciplinary order.

21                                   ACCEPTANCE

22                   I have carefully read the above Stipulated Settlement and Disciplinary. I  
23 understand the stipulation and the effect it will have on my Physical Therapist License. I enter  
24 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,

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1 and agree to be bound by the Decision and Order of the Physical Therapy Board of California.

2 DATED: December 15, 2004.

3  
4 Original Signed By:  
5 THOMAS MICHAEL WERDERITS  
6 Respondent

7  
8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Physical Therapy Board of California of the Department of  
11 Consumer Affairs.

12 DATED: December 16, 2004.

13 BILL LOCKYER, Attorney General  
14 of the State of California

15 Original Signed By:  
16 E. A. JONES III  
17 Deputy Attorney General  
18 Attorneys for Complainant

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**Exhibit A**  
**Accusation No. 1D 2004 63822**

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**BEFORE THE  
PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

THOMAS MICHAEL WERDERITS  
509 Gaynfair Terrace  
Arroyo Grande, CA 93420

Physical Therapist License No. PT 20192

Respondent.

Case No. 1D 2004 63822

OAH No. L2004090267

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board of California, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 29, 2005. It is so ORDERED March 30, 2005.

Original Signed By:  
FOR THE PHYSICAL THERAPY BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
Donald A. Chu, PhD, PT, President